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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,789	01/18/2002	Lijun Wu	1855.1063-010	9077

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EXAMINER

ULM, JOHN D

ART UNIT	PAPER NUMBER
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1649

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,789

Applicant(s)

WU ET AL.

Examiner

John D. Ulm

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 11-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44 and 45 is/are allowed.
- 6) ☒ Claim(s) 1-6 11-17 19 22 24-26 28 30-37 39-43 36-49 is/are rejected.
- 7) ☒ Claim(s) 18,20,21,23,27,29 and 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1) Claims 1 to 6 and 11 to 49 are pending in the instant application. Claims 2 to 6, 12, 14 to 20, 22 to 24, 26, 27, 29 to 34, 36 to 38, and 45 have been amended, claims 7 to 10 have been canceled and claims 46 to 48 have been added as requested by Applicant in the correspondence filed 14 September of 2005.

2) Any objection or rejection of record that is not expressly repeated in this action has been overcome by Applicant's response and withdrawn.

3) The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4) Claims 18, 20, 21, 23, 27, 29 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5) Claims 44 and 45 are allowable as written.

6) Claims 4 and 12 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 11 and 40 of prior U.S. Patent No. 6,488,930. This is a double patenting rejection.

7) Claims 1 to 6, 11, 12, 39 to 41 and 46 to 49 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 to 64 of U.S. Patent No. 6,488,930. for those reasons of record as applied to claims 1 to 6, 11, 12, 39 to 41 in section 4 of the previous office action.

8) Claims 1 to 3, 5, 6, 11, 13 to 17, 19, 22, 24 to 26, 28, 30 to 37, 39 to 43 and 46 to 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Power et al. publication (J. Biol. Chem. 270(33):19495-19500, 18 Aug. 1995) in view of the

Chuntharapai et al. publication (Methods in Enzymology 288:15-27, 1997) for those reasons of record as applied to claims 1 to 3, 5, 6, 11, 13 to 17, 19, 22, 24 to 26, 28, 30 to 37 and 39 to 43 in section 8 of the previous office action. As essentially stated therein, the Power et al. publication described the CCR4 protein of the instant invention and identified it as a member of the G protein-coupled receptor family belonging to the class of G protein-coupled receptors known as chemokine receptors. The Power et al. publication does not anticipate the instant claims because it did not describe blocking antibodies to the chemokine receptor described there.

The Chuntharapai et al. publication is a review article that described the "Generation of Monoclonal Antibodies to Chemokine Receptors". Because the Chuntharapai et al. publication provided both the motivation and guidance needed to produce blocking antibodies to chemokine receptors like that of Power et al., an artisan would have found it *prima facie* obvious to produce blocking monoclonal antibodies to the chemokine receptor of Power et al. by employing those methods of Chuntharapai et al. publication to facilitate the understanding of the actions of MIP-1 α , RANTES, and MCP-1 on that receptor. Further, one would have found it obvious to administer such an antibody to an individual to inhibit "the recruitment of basophils to inflammatory sites and the subsequent release of mediators such as histamine and peptidoleukotrienes" in view of the text in the first paragraph on page 19495 of Power et al.

Applicant has traversed this rejection essentially on the premise that one of ordinary skill did not have a reasonable expectation that blocking antibodies to the receptor of Power et al. could be produced by those methods that were described by

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Chuntharapai et al. publication because "CCR4 shares no significant relationship at the region where the IL8 receptors control ligand binding specificity". On the contrary, the Chuntharapai et al. publication is a review article outlining those general methods that were routinely employed in the art prior to the making of the instant invention to generate blocking monoclonal antibodies to the **class of receptor proteins** to which the protein of Power et al. belonged. At no point has the CC chemokine receptor of Power et al. been alleged to be equivalent to an IL-8 receptor. However, these proteins belong to an art recognized family and class of proteins in which all of the members are analogous because they share major common structural and function features. CCR4 and IL8R not only belong to the G protein-coupled receptor family but they also belong to the class of G protein-coupled receptors known as chemokine receptors. Again, it is emphasized that this is **an art recognized class of proteins**, as evidenced by Figure 2 of the Power et al. publication and it is the class of proteins to which the methods of Chuntharapai et were **expressly taught to be generally applicable**. A review of the instant specification shows that Applicant used precisely those methods of Chuntharapai et al. to achieve the results expressly taught by Chuntharapai et at. Therefore, there is no evidence that the production of blocking monoclonal antibodies to the CC chemokine receptor of Power et al. required anything more than the routine practice of the art.

9) Applicant's arguments filed 14 September of 2005 have been fully considered but they are not persuasive.

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10) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

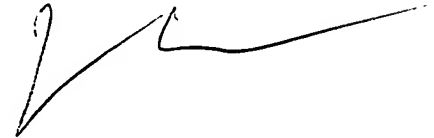
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Ulm whose telephone number is (571) 272-0880. The examiner can normally be reached on 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on (571) 272-0867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JOHN ULM
PRIMARY EXAMINER
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